

# Notice of Allowability

## Application No.

09/327,230

## Examiner

Amy Nelson

## Applicant(s)

GRAY ET AL.

## Art Unit

1638

### -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 11/24/03.
2. ☒ The allowed claim(s) is/are 2-9, 11-17, and 19-23 (renumbered as claims 1-20).
3. ☒ The drawings filed on 6/7/99 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 3/18/04 .
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Leigh Thorne on 3/18/04.

The application has been amended as follows:

In the Claims:

Claims 1, 10, and 18 have been canceled.

Claim 2 (currently amended). An isolated [nucleotide sequence] promoter comprising the sequence set forth in SEQ ID NO:1.

Claim 3 (currently amended). An expression cassette comprising the [nucleotide sequence] promoter of claim 2 operably linked to a heterologous coding sequence.

Claim 9 (currently amended). A plant having stably incorporated in its genome an expression cassette, said expression cassette comprising a promoter having the sequence set forth in SEQ ID NO:1 operably linked to a [polynucleotide] heterologous coding sequence.

Claim 11 (currently amended). The plant of claim [10] 9, wherein said [gene is a gene that provides] coding sequence encodes a protein that confers resistance to insects or to fungal pathogens.

Claim 12 (currently amended). The plant of claim 9, wherein said [polynucleotide is an] coding sequence is in the antisense [sequence] orientation.

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Claim 17 (currently amended). A plant cell having stably incorporated in its genome an expression cassette, said expression cassette comprising a promoter having the sequence set forth in SEQ ID NO:1 operably linked to a [polynucleotide] heterologous coding sequence.

Claim 19 (currently amended). The plant cell of claim 18, wherein said [gene is a gene] coding sequence encodes a protein that confers resistance to insects or to fungal pathogens.

Claim 20 (currently amended). The plant cell of claim 17, wherein said [polynucleotide is an] coding sequence is in the antisense [sequence] orientation.

In the Title:

The Title of the Invention has been changed to:

--MAIZE LLS1 PROMOTER--.

Abstract:

At line 4, "methods and compositions for suppressing" has been deleted.

Lines 5-8 have been deleted.

At line 9, "regulation of cell death in plants. Also provided are inducible promoters" has been replaced with --a maize *lls1* promoter--.

1. Any inquiry concerning this communication should be directed to Amy Nelson at (571) 272-0804. The examiner can normally be reached Monday-Thursday from 6:30 am to 5:00 pm.

The fax number for TC 1600 is (703) 872-9306.

Any inquiry of a general nature, relating to the status of this application or if a paper has not been received, should be directed to TC 1600 Customer Service at (571) 272-0547.



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